

## REMARKS

### **Remarks About the Prior Art Rejections:**

In the outstanding Office Action, the Examiner rejected claims 18, 21 and 22 under 35 USC 102(b) as being anticipated by US Pub. No. 2002/0148749 to Briseboi and claim 20 under 35 USC 103 as being made obvious over Briseboi. The Examiner also rejected claims 1, 5 and 11-17 under 35 USC 103 as being made obvious over Briseboi in view of USP 6,520,330 to Batra, claims 1 and 5-21 as being obvious over USP 6,601,705 to Molina in view of Batra and claims 2-4 as being obvious over Molina in view of Batra and PCT Pub. No. WO 02/30347 to Farris. Applicants respectfully submit that the claims, as amended below, are patentable over the cited references and notice to that effect is earnestly solicited.

### **Claims 1, 3, 4, 11-13 and 15:**

Applicants have rewritten claim 2 in independent form (see amended claim 1). The Examiner rejected claim 2 as being obvious over the combination of Molina, Batra and Farris. Applicants respectfully disagree for the at least the following reasons.

Claim 1 recites “*a peel strip removably connected to [a] garment side outer cover over a garment attachment adhesive, wherein at least a portion of said garment side outer cover is configured with said first visual characteristic and at least a portion of said peel strip is configured with said second visual characteristic; and a packaging component having at least said first and second visual characteristics, wherein said product component is disposed in said packaging component.*”

Applicants have clarified that the peel strip is connected to the outer cover “over a garment attachment adhesive.” In this way, the packaging component is coordinated with the product component, which in turn provides the user “with an impression that the product is of high quality, and that the product and packaging were designed together, rather than piece meal” (Specification at 3, lines 5-9). In addition, “the

visually coordinated product and packaging provides the user with an emotional benefit, allowing them to feel more feminine with respect to female absorbent products and to feel better about the product they are using” (Id. at 3, lines 9-13).

In contrast, the recited combination applied by the Examiner fails to disclose or suggest all of the elements of claim 1. Accordingly, the Examiner has failed to make out a *prima facie* case of obviousness (MPEP 2143 and 2143.03).

First, the Examiner has asserted that Molina discloses that a “peel strip (wrapper) may comprise the visual indicator” (Office Action at 8). Applicants respectfully disagree. While Molina discloses a “wrapper,” nowhere does Molina disclose that it forms a “peel strip,” defined by Applicants as being “removably secured to the garment attachment adhesive and [which] serves to prevent premature contamination of the adhesive before the absorbent article 10 is secured to the crotch portion of an undergarment” (Specification at 6, line 30 to 7, line 2). Applicants have now clarified that the peel strip is attached “over a garment attachment adhesive.” Since none of the cited references discloses coordinating a peel strip having a first visual characteristic coordinated with a visual characteristic on a packaging component, the Examiner’s rejection should be withdrawn.

In addition, the Examiner asserts that “one would have been motivated to modify the packaging system of Molina et al. to have a first and a second characteristic, as taught by Batra, since . . . Molina discloses that any indicator may be used to indicate the article’s performance characteristic” (Office Action 6). Although Batra teaches first and second indicia, those indicia are individually applied to the product and the packaging respectively (see e.g., Col. 2, lines 54-46). Batra does not disclose or suggest that *both* of the first and second indicia are applied to *each* of the product and packaging. Accordingly, the combination of Molina and Batra, as asserted by the Examiner, also fails to disclose these additional recitations.

Finally, Applicants submit that one of skill in the art also would not be motivated to combine Batra and Molina when considered in their entirety. In particular, Batra discloses that the first and second indicia on the product and

packaging components “are *not identical*,” “that is to say the indicia disposed on the tissue 10 and the indicia disposed on the packaging are *not the same*” (Col. 5, lines 62-63) (emphasis added). In contrast, Molina emphasizes the importance of having “substantially similar or the same [signal] color[s]” on the wrapper 9 and the container 37” (Col. 4, lines 42-45). In this way, the user is advised of the performance characteristics of the product. If the product had different signal colors, the consumer could be confused about such characteristics. Accordingly, for this additional reason, the Examiner has failed to make out a *prima facie* case of obviousness.

#### **Claims 5-10 and 24:**

As just noted with respect to claim 1, there is no suggestion to combine Molina and Batra, and even if combined, those references fail to disclose or suggest all of the recitations of independent claim 5, which previously depended from claim 1. In particular, both Molina and Batra disclose the same thing – a product component and a packaging component having indicia, but with the indicia on Molina being the same, and the indicia on Batra not being the same, thereby teaching against combining the references.

Molina, however, further teaches away from having *two* indicia on the *same* product and also on a packaging component. In particular, Molina discloses that the color on the product coordinates with the color on the packaging to indicate performance characteristics (Col. 4, lines 55-65). While Molina discloses that a kit might have different signal colors, the individual products within the kit *never* would, as that would confuse the user as to the performance characteristic associated with that product (Col. 6, lines 42-60). Simply put, having multiple colors on *each* of the packaging *and product* of Molina would render the invention unsatisfactory for its intended purpose (MPEP 2143.01).

For these reasons, the Examiner’s rejection of claim 5 should be withdrawn.

**Claim 14:**

Applicants have rewritten claim 14 in independent format. Claim 14 recites that the “packaging component comprises a wrapper element having said first visual characteristic and a fastening element having said second visual characteristic.” First, claim 14, which previously dependent from claim 1, is patentable over Molina and Batra for all of the reasons set forth above with respect to claim 1.

Second, Applicants do not understand the rejection of claim 14 over Molina and Batra, since the Examiner only states “see discussion for C22” (Office Action at 8). The Examiner rejected claim 22 only as being anticipated by Briseboi, which has nothing to do with Molina or Batra. Accordingly, if the Examiner wants to maintain this rejection, Applicants respectfully request a new, non-final Office Action explaining the rejection.

Third, and in any event, neither Molina nor Batra disclose a packaging component having “a wrapper element having a first visual characteristic and a fastening element having a second visual characteristic,” let alone that those characteristics are coordinated with first and second visual characteristics of a product component.

With respect to the rejection of claim 14 over Briseboi and Batra, Applicants first submit that the “wrapper” and fastening element (tear-away strip) (Office Action at 2-3) are applied to different packaging components, not the same packaging component “sized and configured to hold a single, individual product component” and which has the first and second visual characteristics as recited in claim 14. Rather, the tear away strip 178 is for the receptacle 102 that holds a plurality of pouches 310.

With respect to the embodiment of Figure 7 in Briseboi, Applicants submit that both indicia are on the reminder tag, not on the wrapper. In essence, Briseboi teaches indicia 106 and 108 as being both on the wrapper or both on the fastening element, but not one on each!

Finally, Applicants respectfully submit that there is no suggestion to combine Briseboi and Batra as suggested by the Examiner. In particular, the entire premise of

Briseboi is to provide a system wherein the user knows what the product is inside *without* having to open the package (para. 7):

A particular problem occurs when the user carries in her purse or pocket one or more individual packaged sanitary napkins. Since the packaging (pouch) found on sanitary napkins today is opaque, a simple visual inspection of the pouch will not reveal to the user the characteristics of the sanitary napkin in the package, such as its liquid absorption capacity, configuration or type of material used in the construction of the sanitary napkin, among others. The user is left with the option of removing the sanitary napkin from the pouch to ascertain if it is of the type she now requires. However, the removal of the sanitary napkin from the pouch usually results in the destruction of the pouch. If it turns out the sanitary napkin is of the type unsuitable for the immediate need, the sanitary napkin is wasted.

Accordingly, there is no suggestion, and in fact Briseboi teaches against, putting first and second indicia on the product. In addition, as noted above, Batra teaches only that first and second indicia are individually applied to the product and the packaging respectively (see e.g., Col. 2, lines 54-46), not that *both* of the first and second indicia are applied to *each* of the product and packaging. Accordingly, even if combined, Briseboi and Batra fail to disclose all of the limitations of claim 14.

### **Claims 16, 17 and 23:**

Claim 16 has been rewritten in independent form, and further to recite that “said packaging component comprises a non-woven spunbond material.” At the outset, while Briseboi discloses “a cardboard box” for holding a plurality of sanitary napkins, and “paper wrapping” for holding the individual napkins, neither of those materials is a “non-woven spunbond material,” let alone a non-woven material having the recited basis weight of claim 17, which makes the material “see through” as recited in claim 23 (see Specification at 3, liens 14-19; at 10, lines 1-7).

Indeed, with respect to the “paper wrapping,” Briseboi expressly teaches against a see through packaging component (para. 7 – “the packaging (pouch) found on sanitary napkins today is opaque”). If the wrapper of Briseboi were “see-through,”

the entire premise of Briseboi (para. 7) needing indicia on the wrapper or on a reminder tag would be obviated.

Accordingly, claims 16 and 17 should be passed to allowance on the next Office Action.

**Claims 18, 20 and 21:**

Applicants have rewritten claim 19 in independent form as claim 18. The Examiner rejected claim 19 as being obvious over Molina and Batra. As set forth above with respect to claim 1, there is no suggestion to combine those references, and even if combined they fail to disclose or suggest all of the limitations of amended claim 18.

Claim 18 recites a “*product component [comprising] at least first and second visual characteristic; a first packaging component having said at least said first and second visual characteristics*, wherein said product component is disposed in said first packaging component; and *a second packaging component having said at least said first and second visual characteristics*, wherein said first packaging component is disposed in said second packaging component.”

As noted above with respect to claim 1, although Batra teaches first and second indicia, those indicia are individually applied to the product and the packaging respectively (see e.g., Col. 2, lines 54-46). Batra does not disclose or suggest that *both* of the first and second indicia are applied to *each* of the product and *two* packaging components. Moreover, the Examiner acknowledges that Molina does not “disclose that the indicator comprises a first and second characteristic” (Office Action at 6). Accordingly, the combination of Molina and Batra, as asserted by the Examiner, fails to disclose all of the limitations of claim 18.

In addition, Applicants submit that one of skill in the art also would not be motivated to combine Batra and Molina when considered in their entirety. In particular, Batra discloses that the first and second indicia on product and packaging components “are *not identical*,” “that is to say the indicia disposed on the tissue 10

and the indicia disposed on the packaging are *not the same*” (Col. 5, lines 62-63) (emphasis added). In contrast, Molina emphasizes the importance of having “substantially similar or the same [signal] color[s]” on the wrapper 9 and the container 37” (Col.4, lines 42-45). Accordingly, for this additional reason, the Examiner has failed to make out a *prima facie* case of obviousness.

**Claim 22:**

Applicants have rewritten claim 22 in independent form. Claim 22 recites “a first packaging component having at least first and second visual characteristics, wherein said product component is disposed in said first packaging component, *wherein said first packaging component comprises a wrapper element having said first visual characteristic and a fastening element having said second visual characteristic; and a second packaging component having said at least said first and second visual characteristics*, wherein said first packaging component is disposed in said second packaging component.”

Similar to the analysis above with respect to claim 14, the “wrapper” and fastening element (tear-aways strip) (Office Action at 2-3) of Briseboi are applied to different packaging components, not to each of *two* packaging components, one disposed in the other, each having first and second visual characteristics. Rather, the tear away strip 178 of Briseboi is for the receptacle 102 that holds a plurality of pouches 310.

With respect to the embodiment of Figure 7 in Briseboi, Applicants submit that both indicia are on the reminder tag, not on the wrapper. In essence, Briseboi teaches indicia 106 and 108 as being both on the wrapper or both on the fastening element, but not one on each!

For these reasons, the Examiner’s rejection of claim 22 should be withdrawn.

**Conclusion:**

If for any reason this application is not considered to be in condition for

allowance and an interview would be helpful to resolve any remaining issues, the Examiner is respectfully requested to call the undersigned attorney at (312) 321-4713.

Respectfully Submitted,

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